

ORDINANCE NO. 3682 C.S.

AN ORDINANCE OF THE COUNCIL OF THE CITY OF MONTEREY

**AMENDING MONTEREY CITY CODE CHAPTER 17 RELATING TO THE EAST MOORINGS,
SALES OF WHOLE SEAFOOD FROM BOATS, LIVEBOARD PERMITS, INOPERABLE
VESSELS, AND PARKING PERMIT POLICIES FOR BERTH LICENSEES**

THE COUNCIL OF THE CITY OF MONTEREY DOES ORDAIN, as follows:

SECTION 1:

WHEREAS, Chapter 17 of the Monterey City Code regulates the Harbor and Marina;

WHEREAS, the City desires to update Chapter 17 to simplify and modernize the code;
and,

WHEREAS, the City of Monterey determined that the proposed action is not a project as defined by the California Environmental Quality Act (CEQA)(CCR, Title 14, Chapter 3 ("CEQA Guidelines), Article 20, Section 15378). In addition, CEQA Guidelines Section 15061 includes the general rule that CEQA applies only to activities which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Because the proposed action and this matter have no potential to cause any effect on the environment, or because it falls within a category of activities excluded as projects pursuant to CEQA Guidelines section 15378, this matter is not a project. Because the matter does not cause a direct or any reasonably foreseeable indirect physical change on or in the environment, this matter is not a project. Any subsequent discretionary projects resulting from this action will be assessed for CEQA applicability.

NOW THEREFORE, the Monterey City Council declares as follows:

SECTION 2: The above recitals are true and correct and are hereby incorporated and adopted as findings of the City Council as if fully set forth herein.

SECTION 3: Monterey City Code, Chapter 17, Section 17-3(f) is hereby amended to read as follows:

"f. "Dinghy" means a small boat propelled by oars, sails or motor which is capable of being carried aboard the vessel and which does not exceed 12 feet in length and 5 feet in width, provided, however, upon prior written authorization from the Harbormaster or his designated representative, said dinghy may be longer than 12 feet."

SECTION 4: Monterey City Code, Chapter 17, Section 7(a) is hereby amended to read

as follows:

“a. Vessels berthed, moored or anchored in the Harbor and Outer Harbor must be operable, maintained in a seaworthy condition, and be of a design suitable for operation on the open waters of Monterey Bay in the typical range of sea conditions. Dinghies side-tied by special permit shall not be required to be seaworthy or operable, as defined in this Chapter, if they are used to access moored vessels within the breakwater.”

SECTION 5: Monterey City Code, Chapter 17, Section 18 is hereby amended to read:

“Sec. 17-18. Deliveries and Sales of Seafood at the Harbor.

- a. It is hereby declared to be a public nuisance and unlawful for any person to offer for sale or make deliveries of fresh fish or other seafood at the Monterey Harbor or on City-owned parking areas except as provided by the terms of a lease, permit, or contract that has been specifically authorized by the City Council.
- b. Notwithstanding subsection (a), the Harbormaster shall have authority to issue fifteen (15) permits to commercial fishing vessels for the sale of whole, fresh fish and other seafood directly from their vessel pursuant to the following conditions:
 - i. Permits shall be issued on a first-come, first-served basis and must be renewed annually.
 - ii. The fee for the annual permit shall be adopted and integrated into the City’s Master Fee Schedule by resolution of the City Council.
 - iii. All sales shall occur from the K-Dock area as directed by the Harbormaster.
 - iv. Only whole, fresh seafood may be sold. No steaking or filleting, other than gilling and gutting, shall occur.
 - v. Only retail sales to the ultimate consumer are allowed. No sales to restaurants or markets are allowed.
 - vi. Seafood must be sold from the vessel that caught it or, if the Harbormaster determines that vessel is too large to safely dock at the K-Dock, then the sales may occur from another vessel or dinghy owned by the same person.
 - vii. Upon request of the Harbormaster, the permittee shall provide a daily accounting of the amount of seafood brought to the dock for sale, the amount sold, and the amount remaining.
 - viii. Due to the size of the K-Dock, vessels with permits must rotate and spend only a reasonable amount of time at the dock. The Harbormaster shall have the authority to set and enforce a rotation of vessels.
 - ix. No signs or other obstructions may be placed by permittees on the dock.
 - x. Permittees must obtain a City business license.

- xi. All other applicable local, state, and federal laws, regulations, and rules shall be followed by permittees.
- xii. Violation of any condition in this section shall result in the Harbormaster's revocation of the permit.

SECTION 6: Monterey City Code, Chapter 17, Subsection 33(a) is hereby amended to read as follows:

"a. Every vessel entering the Outer Harbor and Harbor shall immediately become subject to the authority and direction of the Harbormaster. The Harbormaster shall direct where each vessel shall be berthed, moored, or anchored."

SECTION 7: Monterey City Code, Chapter 17, Subsection 35(a) is hereby amended to read as follows:

"a. *Assignment.* No person shall berth or moor a vessel in the Harbor, Outer Harbor, or Marina without first having been issued a berth or mooring assignment by the Harbormaster and signed a license agreement, been issued a temporary transient assignment and signed a transient vessel license agreement, or in the case of a mooring only, having been issued a sub-license permit. Unauthorized berth or mooring occupancy is prohibited. License fees shall be established by resolution of the City Council. The Harbormaster is authorized to move, secure, cite, and/or impound any vessel occupying an unauthorized berth or mooring. All fees involved in such action will be charged to the vessel's owner."

SECTION 8: Monterey City Code, Chapter 17, Subsection 36(a)(4)(ii) is hereby amended to read as follows:

"ii. Remain in the berth or mooring provided by the Harbormaster for at least 30 months to continue the license agreement. Additionally, for every two months which that individual has been on the Monterey berth or mooring waiting list, one month may be deducted from the required wait for vessel replacement, as calculated at the time of the license transfer. Exceptions will be made to this provision if the vessel departs on an extended voyage, including commercial fishing operations, provided it is still owned and operated by the licensee upon its return to Monterey. If the vessel is damaged to the extent it is no longer feasible to remain in a seaworthy or operable condition, the vessel shall be removed at the owner's expense and the license agreement will be revoked."

SECTION 9: Monterey City Code, Chapter 17, Subsection 37(h) is hereby added to read as follows:

"*Parking.* Berth licensees may purchase from the Harbormaster no more than two annual Waterfront Lot or Wharf No. 2 Lot parking permits at the rate established in the Master Fee Schedule. Additional permits or permits for non-licensees may be obtained by applying to the City's Parking Division pursuant to its standard procedures."

SECTION 10: Monterey City Code, Chapter 17, Section 39 is retitled "Outer Harbor

Mooring Regulations” and the following paragraph is added before subsection (a):

“The regulations in this section apply to moorings in the Outer Harbor.”

SECTION 11: Monterey City Code, Chapter 17, Subsection 39(d)(4) is hereby added to read as follows:

“d. 4. *Pendants*. Outer Harbor Mooring licensees are required to have two independent pendants securing their mooring ball.”

SECTION 12: Monterey City Code, Chapter 17, Section 40 is retitled “Outer Harbor Mooring Sub-Licenses” and the paragraph before subsection (a) is amended to read:

“Outer Harbor mooring licensees must occupy their moorings with a vessel they own for a minimum of six months out of any 12-month period, except as described below. No Outer Harbor mooring licensee may sublease, sub-rent, or sub-license the mooring to another person or entity except through the Harbormaster’s Office and according to the procedure established in this Section. The use of a mooring by any boat other than the licensee’s must be reported promptly to the Harbor Office and approved in writing by the Harbormaster .”

SECTION 13: Monterey City Code, Chapter 17, Subsection 43(b) is hereby amended to read as follows:

“b. A maximum of 15 liveaboard vessels will be permitted to occupy berths in Monterey Marina and a maximum of 15 liveaboard vessels will be permitted to occupy moorings in the Outer Harbor. In the event a vessel with a liveaboard permit is reassigned from a mooring to a berth, or a berth to a mooring, the liveaboard permit shall remain valid even if the reassignment exceeds the maximum allowable number of liveaboards for the newly assigned area; however, no further liveaboard permits will be issued until the number of liveaboards for the area affected is back under the maximum 15 permitted.”

SECTION 14: Monterey City Code, Chapter 17, Subsection 43(d)(2) is hereby amended to read as follows:

“2. At least one applicant must have a berth or mooring license agreement. The application must list all other occupants who will be living aboard. The vessel shall be equipped with an operable Marine VHF radio, which shall be maintained in good working order during the liveaboard term. An operable cellular phone is required in addition to the marine radio. Both the radio and the cellular telephone must be on when the vessel is occupied.”

SECTION 15: Monterey City Code, Chapter 17, Section (43)(e)(9) is hereby deleted.

SECTION 16: Monterey City Code, Chapter 17, Sections 45 through 54 are renumbered and restated as Sections 46 through 55.

SECTION 17: Monterey City Code, Chapter 17, Section 45 is hereby amended to read as follows:

“Sec. 17-45. East Mooring Regulations.

a. *General regulations.* All East Mooring vessels and licensees are subject to the regulations stated in Section 17-33 (a) through (f).

b. *Vessel Size.* Vessels in the East Mooring area must be between 20-feet and 45-feet in length (measured using extreme length of vessel), and may not exceed 10 tons in weight.

c. *Use of Mooring.* Except for dinghies, only one vessel is allowed on an East Mooring ball at any one time. An East Mooring license shall authorize the holder thereof to use the facilities for mooring purposes only and grants no further rights, privileges or uses. No sublicenses are permitted in the East Mooring area. Additional or varying uses shall not be allowed except as provided in this Chapter, City Council resolutions, or with the written permission of the Harbormaster.

d. *Blocks.* The Harbormaster shall maintain all blocks, chains and mooring balls in the East Mooring area.

e. *Maintenance and care of mooring.* Vessel owners are responsible for their mooring lines and chafe gear, and for the safe and secure mooring of their vessels. They are liable for damage to their own vessel, and to other vessels, caused by their negligent, reckless, or willful acts or omissions. Boat owners will be billed for labor and materials to secure vessels which are improperly or inadequately secured, or to repair mooring facilities which are damaged by said acts or omissions.

f. *Participation in the Seasonal East Mooring program.* East Moorings are available for use from April through October. From November through March, East Mooring licensees have the option of moving the vessel into the Marina and will be provided the use of an appropriately sized berth, paying the 1.5 times the berth rate rather than the transient rate. In order to take advantage of Marina berthing and the 1.5x's rate, the vessel must have been assigned to, used, and paid for an East Mooring license for a minimum of 90 days during the preceding April through October period.

g. *Dinghy space.* The City will provide, at no cost from April through October, a dingy space located either in the Marina or at Wharf 1, for any licensee participating in the seasonal East Mooring program.

h. *Overnight stays.* No one is permitted to stay aboard a vessel on an East Mooring overnight, which shall be from 10 pm to 6 am. Licensees may, however, bring their boats into the Marina for an overnight stay as a transient vessel, paying the appropriate transient fees, and following all other transient regulations as found in Section 17-42.

i. *Inoperable vessels.* All East Mooring vessels are subject to the regulations as stated in Section 17-7.”

SECTION 18: City Council Resolution No. 00-11 “Resolution Authorizing up to Fifteen

Concession Permits for Sale of Whole, Fresh Fish Directly from Boats in Monterey Marina” and all ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 19: This ordinance shall be in full force and effect thirty (30) days from and after its final passage and adoption.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF MONTEREY this 16th day of April, 2024, by the following vote:

AYES:	3	COUNCILMEMBERS:	Garcia, Haffa, Williamson
NOES:	0	COUNCILMEMBERS:	None
ABSENT:	2	COUNCILMEMBERS:	Barber, Smith
ABSTAIN:	0	COUNCILMEMBERS:	None


APPROVED:

ATTEST:

DocuSigned by:

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 Mayor of said City

DocuSigned by:

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 City Clerk thereof